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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/456,892	12/07/1999	MURALI PARTHASARATHY	5150-18301	7045

7590 03/09/2004

JEFFREY C HOOD  
CONLEY ROSE & TAYON PC  
PO BOX 398  
AUSTIN, TX 78767

EXAMINER

CHAVIS, JOHN Q.

ART UNIT	PAPER NUMBER
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2124

DATE MAILED: 03/09/2004

15

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/456,892

Applicant(s)

PARTHASARATHY ET AL.

Examiner

John Chavis

Art Unit

2124

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12-7-03, 12-23-03, 12-24-03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 15,17-32,36-38,40,42,44-59,63-65,67,69-81,83-114 and 116-122 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15,17-32,36-38,40,42,44-59,63-65,67,69-81,83-114 and 116-122 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

☒ The IDS date 12-7-03 can not be located. Please provide another copy.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 14. (3 boxes)
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Specification*

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because it is not on a separate sheet.

Correction is required. See MPEP § 608.01(b). **The abstract was never mentioned in the applicant's response and the correction has not been made.**

3. Claims 17, 19-22, 24, 26-27, especially claim 42, 44, 46-49, 51, and 52-53 are objected to because of the following informalities: the claims are correctly identified as previously amended; however, markings exists as if the claims are being currently amended. Appropriate correction is required.

### *Double Patenting*

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 15, 17-20, 22-32, 36, 38, 40, 42, 44-47, 49-59, 63, 65, 67, 69-84, 86-122 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-90 of U.S. Patent No. 6,064,812. Although the conflicting claims are not identical, they are not patentably distinct from each other because (for example) claim 1 of the present invention refers to a memory medium comprising instructions for creating a graphical data flow program; while, that specific feature is considered inherent in claim 3 in view of claims 4 and 5 of '812 to enable the computer-implemented method and specific in claim 47 of '812. The present invention also displays on a display a graphical data flow program; while, '812 displays the feature on a screen (display device). The present invention further displays on the screen a first node...in response to user input; while '812's col. 25 lines 61-63 provides for this feature. The present invention also configures the first node; while, an equivalent feature is provided for via '812's col. 25 lines 64-67. The receiving features of the applicant's claim 1 are inherent via col. 26 lines 1-4 in view of claim 2 ('812 col. 26 lines 5-11). The other claims are not identical; however, they possess the same type of difference in phraseology with similar meanings as the example above (For example, The features of claims 15, 17-20, 27-29, 36, 38, 40, 42, 44-47, 54-56, 63, 65, 67, 69-80, 82-84, 89, 102-103, 107-109, 112, 114-120, and 122, are indicated via claim 2 of '812; Claims 22-23, 49-50, and 86-87 are specified via '812's claim 4; Claim 22 of '812 provides for the client/server functions of claims 24-26, 51-53, 88, 90-101,

104-106, 110, 113, and 121; Claims 10 and 12-13 provides reference to the automation/instrumentation feature of claims 30-31, 57-58, and 111; while, Claim 17 provides the functions of claims 32, 59, and 81.

**The applicant responded to the previous double patenting rejection by stating that the “applicant hereby includes a Terminal Disclaimer to overcome the rejection”. Then, the applicant indicates, “the Terminal Disclaimer will be mailed shortly”; however, the disclaimer has still not been received. Therefore, the rejection remains.**

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 15, 17-32, 36-38, 40, 42, 44-59, 63-65, 67, 69-122 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fowlow and further in view of Cain. The applicant should note that this rejection is in view of two references and although it is not clear which diagram indicates the applicant's graphical data flow that is supposedly different from Fowlow/Cain, Fowlow again is considered to indicate the features as indicated below and Cain's figures 5-6 are considered to further indicate the claimed feature. The remainder of the rejection

is hereby repeated below to avoid referring back to numerous actions. The applicant's remarks are specifically addressed in the highlighted portions.

Claims

15. A memory medium comprising program instructions for creating a graphical data flow program, wherein the program instructions operate in a computer including a display and a user input device, wherein the program instructions are executable to implement:

displaying on a display a graphical data flow program...

displaying on the screen a first node in the graphical data flow program in response to user input;

configuring the first node with information regarding a first method of a first object, wherein said configuring the first node comprises;

receiving first user input selecting a first class from a set of classes, wherein the first object is operable to be instantiated from the first class, wherein the first class includes one or more methods;

Fowlow/Cain

See Fowlow's abstract in which Fowlow's system constructs and defines links and relationships among nodes (see the summary of the invention). Fowlow's visual representation of links and relationships specifically creates and inherently illustrates (graphically) data flow between nodes.

See Fowlow's fig. 4, the functional part of fig. 1 in view of fig. 2, and col. 3 lines 26-59. **See also, the definition of a tree structure from Que's Computer Programmer's Dictionary, attached, in view of the first receiving step below and the applicant's arguments.**

See Fowlow's col. 4 lines 21-29.

This feature is inherent via col. 6 lines 30-37.

See col. 9 lines 45-50 and col. 6 lines 47-56. Also, uninstantiated objects are inherently classes; which, Fowlow references as files (enabling access to instantiate or invoke objects), col. 12 lines 14-52. Therefore, contrary to the applicant's assertions classes are inherently provided for in object oriented systems and indicated in Fowlow's system as discussed above. Furthermore, objects are created from

classes, col. 2 lines 41-col. 3 line 2 (in the standard case by a developer; but, in Fowlow's system graphically-to simplify the development process), see col. 6 lines 30-37 and col. 11 lines 46-63. Fowlow's interconnections are also considered to indicate data flow; since, it is considered that data will not flow to an object, which it is not connected to. Note again Cain's figures 5-6, see specifically (for example) the object tree 616 in figure 6D, in view of the first displaying feature above and the applicant's arguments presented 12-23-03. Therefore, contrary to the applicant's arguments, graphical data flow is provided by both Fowlow and Cain.

The applicant further indicates that links and relationships between visual parts are different from a graphical data flow program; however, no explanation is provided to indicate how they are different. Again, graphical links inherently indicates data flow as well as Fowlow (col. 12 lines 29-34) and Cain's tree structure. Also, see Fowlow's abstract, which indicates that links define relationships (data flow).

The applicant further indicates that Fowlow's creating and installing distributed objects is different from instantiating objects from a first class; however, See the discussion above and also note that Fowlow's system is an object oriented system (which includes classes) that is constructed (created) and linked to other objects (inherently instantiated), see again the abstract.

receiving second user input selecting the first method from the one or more methods;

See col. 12 lines 53-67 and col. 13 line 66-col. 14 line 8. Although it may be argued that Fowlow does not include the method selection feature, it may

also be argued that the feature is inherent in object oriented programming to enable applications to be generated, see Fowlow's col. 3 lines 17-41. The last sentence is specifically true when a new object or a new implementations of a previous object is generated, col. 6 lines 23-37. Furthermore, the feature is specifically indicated By Cain, see the abstract and col. 17 line 55-18 line 41. Cain use the feature to simplify the task of creating and maintaining programs. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to utilize the feature in Fowlow's system for the same reason to enable each feature of the object oriented application to be modified visually by the user, see Cain's and Fowlow's abstract. Furthermore, methods and attributes (properties, values, etc.) are also inherent in object oriented systems and therefore must be specifically selected and set to enable object instantiations. Therefore, contrary to the applicant's assertions this feature is also provided for via Fowlow/Cain as indicated above.

wherein the first node is operable to invoke the first method of the first object during execution of the graphical data flow program.

See Fowlow's claim 25. **The applicant further indicates that Fowlow does not recite instantiating objects from a First class; however, instantiating is creating instances when the program runs, col. 4 lines 52-57 by invoking an operation, col. 6 lines 23-32. The applicant should also not the definition of instantiating is to create an object and make it addressable (callable), see the definition provided from Que's Computer Dictionary. The applicant admits that Fowlow creates objects, in the present response (12-23-03) on page 29 lines 8-19**



**and the linking is indication that the objects are addressable. Therefore, Fowlow provides for the claimed features.**

In reference to claims 17-20, 27-29, 36, 38, 40, 42, 44-47, 54-56, 63, 65, 67, 69-80, 82-84, 89, 102-103, 107-109, 112, 114-120, and 122, see the rejection of claim 15 above. The features of getting or setting properties (for example in claim 44) is inherent in the invoking feature of claim 15, see again col. 3 lines 41-59 and col. 4 lines 13-29. Furthermore, it is clear that objects are not associated with other objects until they are specifically linked or connected, See Fowlow's col. 4 lines 13-29 and col. 3 lines 17-41.

As per claims 21, 37, 48, 64, and 85, see previous rejection of claim 1 in view of the rejection of claim 15 above and Fowlow's col. 12 lines 14-24.. Also, see Cain's col. 9 lines 21-22, col. 12 lines 11-13, col. 13 lines 63-67 and col. 17 lines 55-67. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Fowlow's system with the class querying feature to further simplify creating and maintaining programs by enabling access to all features of the respective application to be modified visually by the user **to simplify the reuse of components (see Fowlow's col. 1 lines 47-59, col. 2 lines 3-10, and lines 33-40) by enabling the user to find required objects (Fowlow, col. 9 lines 14-20, col. 9 lines 50-55, col. 12 lines 18-24 and col. 13 lines 1-16). The applicant should also see Cain's col. 1 lines 25-42, col. 10 lines 7-15 and the summary of the invention. Therefore, the querying feature would have been obvious to a person of ordinary skill in the art, as indicated above.**

In reference to claims 22-23, 49-50, and 86-87, see the rejection of claim 21.

As per claims 24-26, 51-53, 88, 90-101, 104-106, 110, 113, and 121, see Fowlow's col. 6 lines 16-37, which indicates that code can be from any environment (i.e. visual or non-visual).

Also, see col. 2 lines 11-24 and col. 6 lines 16-37, for the client/server portion of the different environments.

The features of claims 30-31, 57-58, and 111, are taught via fig. 9 item 920, fig. 10 and col. 14 lines 15-58.

Claims 32, 59, and 81, are taught via Fowlow's col. 4 lines 30-57.

8. The applicant should also be advised that other prior art references, although not specifically cited is considered pertinent to the applicant's claims. For example, Kodosky (5,481,741) teach a method and apparatus for providing attribute nodes in a graphical data flow environment and selected portions of the book entitled Visual Object Oriented Programming by Burnett et al. also indicates the concepts for programming visually in an object oriented environment.

### ***Conclusion***

9. Applicant's arguments filed 12-23-03 have been fully considered but they are not persuasive. See the rejection above in reference to the 35 U.S.C. 103 rejection.

10. This is a RCE of applicant's earlier Application No. 09/456,892. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Q. Chavis whose telephone number is 703-305-9665. The examiner can normally be reached on 8:30 am-5:00 pm Est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on 703-305-9662. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-3900.

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Jqc  
March 5, 2004

A handwritten signature in cursive script, appearing to read "John Chavis", with a long horizontal flourish extending to the right.

JOHN CHAVIS  
PATENT EXAMINER  
ART UNIT 2124